

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
GALVESTON DIVISION

MALIN INTERNATIONAL SHIP	§	
REPAIR & DRYDOCK, INC.	§	
	§	CIVIL ACTION NO. G-13-039
v.	§	
MODU PROSPECTOR, its apparel,	§	
equipment, engines, freights, tackle, etc.,	§	
<i>in rem</i> and	§	
PLANT RECOVERY COMPANY/ PRC	§	
ENVIRONMENTAL, INC.	§	

**ORDER ADOPTING**  
**REPORT AND RECOMMENDATION**


Before the Court is a Report and Recommendation from Magistrate Judge John R. Froeschner, dated March 7, 2014, which recommends that the “Motion to Dismiss” (Instrument no. 74) of Intervenor, Diamond Offshore Services Company (Diamond), be granted and that the counter-claim of PRC Environmental, Inc. (PRC) asserted against Diamond be dismissed. PRC filed timely objections to the Report and Recommendation and counsel for Diamond has notified the Court that no further response will be filed. The matter is, therefore, ripe for this Court’s consideration.

As required by 28 U.S.C. §636(b)(1)(C), this Court has completed a *de novo* review of the relevant submissions and concluded, as did Judge Froeschner, that PRC lacks standing to pursue its counter-claim and, as a result, this Court lacks subject matter jurisdiction to entertain it.

Accordingly, it is hereby **ORDERED** and **ADJUDGED** that:

- 1) PRC's objections (Instrument no. 83) are **OVERRULED**;
- 2) the Report and Recommendation of Magistrate Judge Froeschner is **APPROVED** and **ADOPTED** by this Court;
- 3) Diamond's "Motion to Dismiss" (Instrument no. 74) PRC's counter-claim is **GRANTED**; and
- 4) all claims asserted against Diamond by PRC in its counter-claim are **DISMISSED**.

DONE at Galveston, Texas, this 8<sup>th</sup> day of April, 2014.

  
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Gregg Costa  
United States District Judge